

New Labour Codes of India
Professor K D Raju
Rajiv Gandhi School of Intellectual Property Law
Indian Institute of Technology, Kharagpur
Lecture 22

Minimum Wages, Floor Wages, Central and State Advisory Board

Dear students, in this class, we are going to discuss about the various aspects of minimum wages and the concept of minimum wage, how it came to India and also the definition of minimum wages, which we have already seen and also various components of minimum wages and when the minimum wage is to be given, whether there are any exemptions can be made by the central government on what are the findings or we can say that the jurisprudence which is involved and court responses to such cases, and also we will see the advisory board.

(Refer Slide Time: 0:52) 1:03

CONCEPTS COVERED

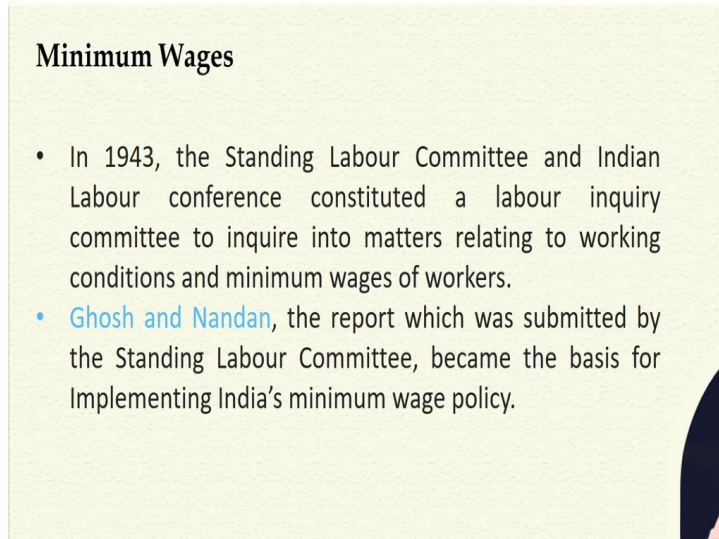
- Minimum Wages
- Fixation of Minimum Wages
- Floor Wage
- Central Advisory Board
- State Advisory Board

KEYWORDS

- Minimum Wages
- Floor Wages
- Advisory Board

And also the government to fix the floor wage, it is very important to look into what is minimum wage.

(Refer Slide Time: 1:03)



Minimum Wages

- In 1943, the Standing Labour Committee and Indian Labour conference constituted a labour inquiry committee to inquire into matters relating to working conditions and minimum wages of workers.
- Ghosh and Nandan, the report which was submitted by the Standing Labour Committee, became the basis for Implementing India's minimum wage policy.

If you look into the historical aspects we can see constitutional provision article 343. And in 1943, the standing labour committee at that point of time and also the labour conference, constituted a Labour Inquiry Committee to look into the matters of implementing a minimum wage in the country. So, the work is started by the Britishers at that point of time, and a report was submitted.

That is Ghosh and Nandan committee report. So, it was submitted by the standing committee of the Labor Committee, and on the basis of the report submitted by Ghosh and Nandan the minimum wages are the minimum wage policy has been implemented in the country at that point of time.

(Refer Slide Time: 1:51)

A.43 of the Indian Constitution

- The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, **a living wage**, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.....

And we can see that, so, article 43 of the constitution very clearly says, this is the post-independence story. Article 43 very clearly says that the state shall endeavour to secure by suitable legislation or economic organization or in any other way to all workers, agricultural, industrial or otherwise, work a living wage.

So, the constitution talks about the living wage and also you can say that which will be this living wage, which may be sufficient for conditions of ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. So, article 43 of the constitution, talks about a living wage.

(Refer Slide Time: 2:38)

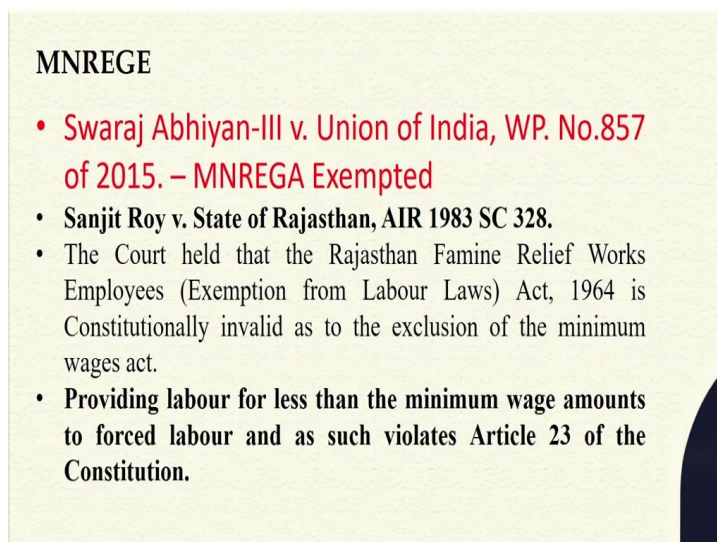
The Code on Wages, 2019 - MNREG

- ❑ **Mahatma Gandhi National Rural Employment Guarantee Act** is a scheme that guarantees employment for 100 days at a rate of wage of INR 120 per day (determined in 2009).
- ❑ These benefits can be secured by any family, whether they are below the national poverty line or above.
- ❑ The Central Government removed the MNREGA wage rates from the state's lowest minimum wage rates in January 2009 when states such as Uttar Pradesh, Rajasthan, and Maharashtra revised and increased their minimum wage rates.

But, we have already talked about the Mahatma Gandhi National Rural Employment Guarantee Act. So, this Act gives provides, 100 days of work in rural areas and mostly at the wages are fixed 120 per day. So, this is much lower than the minimum wages fixed by the State governments in many of these states. So, many state governments have started increasing this particular 120 rupees. So, there is a lot of conflict of interest between some of the states like Uttar Pradesh, Rajasthan, Maharashtra, and other states and the central government was refused to give the minimum wages to the state governments.

So, there was a conflict of interest between the states and the centre on the implementation of this particular Mahatma Gandhi National Rural Employment Guarantee scheme.

(Refer Slide Time: 3:44)



MNREGA

- **Swaraj Abhiyan-III v. Union of India, WP. No.857 of 2015. – MNREGA Exempted**
- **Sanjit Roy v. State of Rajasthan, AIR 1983 SC 328.**
- The Court held that the Rajasthan Famine Relief Works Employees (Exemption from Labour Laws) Act, 1964 is Constitutionally invalid as to the exclusion of the minimum wages act.
- **Providing labour for less than the minimum wage amounts to forced labour and as such violates Article 23 of the Constitution.**

So, this led to litigation in the particular case and also but the Supreme Court very clearly said that paying lower wages than minimum wages is equal to forced labour, but, still, the Central Government is providing enhance the minimum wages, but still it is far below that, the minimum wages fixed by the State governments.

(Refer Slide Time: 4:15)

MNREGEA

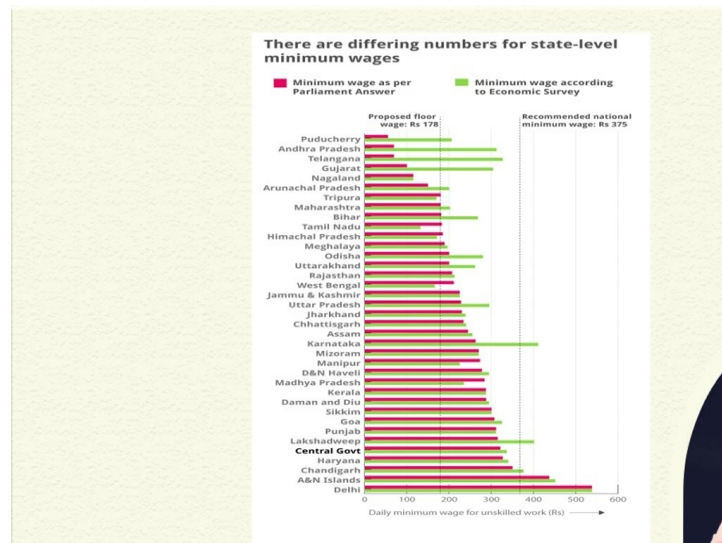
- Different states with different rates:
- Kerala – MW – Rs.490/day – MNREGEA – Rs.311/-
- West Bengal – MW-Rs.342/- MNREGEA – Rs.213/-

For example, you can see that in some the states like Kerala, the minimum wage is 490 rupees per day presently, at the same time, the wage under MNREGEA is 311 rupees. So, there is a huge difference almost we can see that around 200 rupees or 290 rupees difference between the minimum wages and the wages in this particular scheme.

West Bengal you can see that the minimum wages are much lower than rupees 342 but at the same time, in the MNREGEA scheme, the wages are rupees 213 only. So, there is a high disparity. So, why we are discussing this because you can see that even though the government has implemented minimum wages successfully, certain government schemes are paying much lesser than the minimum wages, even though the Supreme Court said that it is forced labour.

So, the government's reply is, very clear in this particular case that they do not have funds, but the question is, that, there is a justification for the implementation, so, the government is imposing this minimum wage all over the industry and at the same time the government themselves saying that they do not have the funds for paying 100 days wages for under this particular scheme. So, this is another point of discussion with regard to minimum wages.

(Refer Slide Time: 5:51)



If you look into the minimum wages all over India, I would say that there is great disparity, for example, the highest amount paid is in Delhi and the lowest amount paid is in Pondicherry. So, this is the 2019 data and the 2019 data says so, it is from the economic survey, so, this is the official data. So, you can see that, there is a huge difference.

So, if it is 550 rupees in Delhi, so, you can see that it is almost, 100 rupees or you can say that less than 100 rupees in Pondicherry. So, this the disparity, so, the government itself is in under confusion that what is exactly the minimum wage. So, there is a complete national disparity in minimum wages, but still, there is a disparity in the state to state

So, how these disparities can be eliminated? So, that is why, so, as I told you, this is the parliamentary question response, so, we have to take it as official data, then we can see that there is a high level of disparity in certain states, even though there can be regional disparity due to the development, but it cannot be the case that 100 rupees in one state and 500 rupees in another state.

So, it cannot happen and entities will lead to a great difference in the living standards of the people and which is going to be against the letter and spirit of article 43 of the Indian constitution.

(Refer Slide Time: 7:36)



But, another interesting factor is that, if we look into the world India is one of the lowest paid minimum wages countries in the world and also we can see that, an interesting fact is that some of the countries like comparing the Philippines or Afghanistan, Indian minimum wages are much lesser. This is 2016 data and now, we have reached the level of around \$3. So, we can see that we are reached the level of Argentina.

But much lesser than other countries like South Korea or Spain and there is no comparison between the United States and Australia. So, we are much paying very low minimum wages around the world over if we compare.

(Refer Slide Time: 8:34)

Minimum Wages Act, 1948 - Repealed

Objective:

An Act to provide for fixing minimum rates of wages in certain employments.

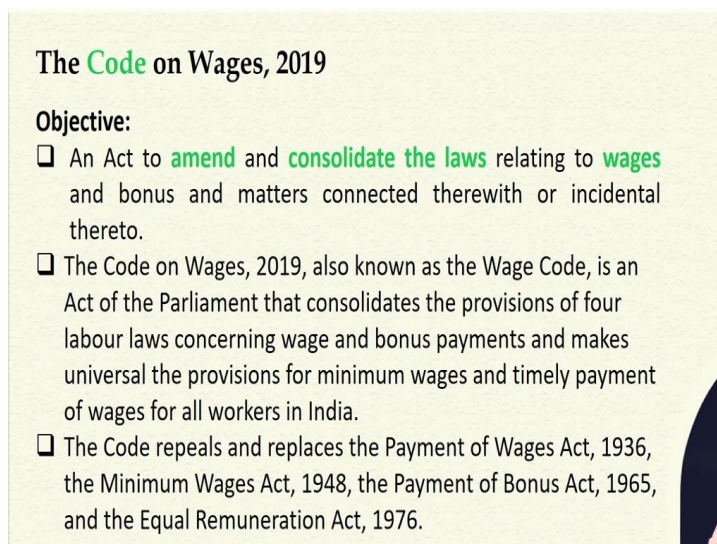
- 1.To allot Fixed minimum wages in scheduled employment.
- 2.Empowers the Government to take steps regarding the fixation of wages and to revise them every five years.
- 3.To prevent exploitation of workers.
- 4.To provide appointment of Advisory Committee and boards having an equal number of representatives of both employers and workers.
- 5.To apply this law to the majority in the organized sector.

Now, we come to the objective of the minimum wage, why do you want to fix the minimum rate of wages? We already said that there is a great disparity, when compared to the world, the disparity in comparing state to state, and the disparity from region to region. So, in the Act, the objectives are very clear, to allow fixed minimum wages in the scheduled employments, of the centre as well as the states.

And it empowers the government to take steps regarding the fixation of wages and to revise them every 5 years. So, the provision says that every 5 years the government can revise the minimum wage, but state governments, maybe within one and a half years, 2 years or a maximum of 2.5 years, they revise the minimum wage. So, the Central Act says that every 5 years they can revise these minimum wages and this will prevent the exploitation of workers throughout the country.

And the appointment of advisory committees and boards had representation bipartite from employees and workers and governments. So all these are going to be tripartite bodies. These minimum wages are going to be applicable to the scheduled employment, the scheduled employment majority of the organized sector is going to be covered by these particular provisions.

(Refer Slide Time: 10:15)



The Code on Wages, 2019

Objective:

- ❑ An Act to **amend** and **consolidate the laws** relating to **wages** and bonus and matters connected therewith or incidental thereto.
- ❑ The Code on Wages, 2019, also known as the Wage Code, is an Act of the Parliament that consolidates the provisions of four labour laws concerning wage and bonus payments and makes universal the provisions for minimum wages and timely payment of wages for all workers in India.
- ❑ The Code repeals and replaces the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, and the Equal Remuneration Act, 1976.

And also we can see that the declared objective is to consolidate the laws relating to wages and bonuses which we already see in the last class. And it repeals the present law repeals the payment of wages act 1936, the Minimum Wages Act 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act of 1976.

(Refer Slide Time: 10:44)

Minimum Wages Act, 1948- Overview

3. Fixing of minimum rates of wages
4. Minimum rate of wages
5. Procedure for fixing and revising minimum wages
11. Wages in kind
12. Payment of minimum rates of wages
13. Fixing hours for a normal working day, etc.
14. Overtime
15. Wages of worker who works for less than normal working day
16. Wages for two or more classes of work
17. Minimum time rate wages for piece work
31. Validation of fixation of certain minimum rates of wages
7. Advisory Board
8. Central Advisory Board

The Code on Wages, 2019 - Overview

Chapter I

2. Definitions
3. Prohibition of Discrimination on ground of gender
4. Decisions as to dispute, with regard to same or similar nature of work.

Chapter II - Minimum Wages

5. Payment of minimum rate of wages
6. Fixation of minimum wages
7. Components of minimum wages
8. Procedure for fixing and revising minimum wages
9. Power of Central Government to fix floor wage
10. Wages of employee who works for less than normal working day
11. Wages for two or more classes of work
12. Minimum time rate wages for piece work
13. Fixing hours of work for normal working day

So, also if you look into the provisions and we are going to discuss all these provisions in detail, what do you mean by minimum wages and how to fix the minimum wages, etc.

(Refer Slide Time: 11:00)

Minimum Wages Act, 1948 - Repealed

- 2(h) “Wages” means all remuneration,
- **Capable of being expressed in terms of money**,
- Which would be payable to a person employed in respect of his employment or of work done in such employment
- If the terms of employment, **express or implied**, were fulfilled,
- and Includes house rent allowance
- **But does not include**
 - *The value of–*
 - *Any house-accommodation, supply of light, water, medical attendance, or*
 - *Any other amenity or any service excluded by general or special order*
 - *Any contribution paid by the employer to any Pension Fund or Provident Fund or other scheme*
 - *Any travelling allowance or traveling concession;*
 - *Any sum paid to defray special expenses or*
 - *Any gratuity payable on discharge;*

So, we already saw the definition of wages in the last class. So, wages include according to the new definition the basic wages, the dearness allowance and the retaining allowance.

So, this is the definition under the Minimum Wages Act of 1948, the Minimum Wages Act of 1948 you cannot find the retaining allowances and also you can say that any remuneration capable of being expressed in terms of money can be considered as wages under the Minimum Wages Act of 1948. So, and also it includes house rent elements. So, house rent, house accommodation, you can see that it is excluded in the new Act.

(Refer Slide Time: 11:58)

Minimum Wages Act, 1948 - constitutional validity

- “ **V. Unichonoy vs State of Kerala, 1962, SC12**. it was held that:
- “Fixation of minimum wages is for the preservation of public order, and if no minimum wage is fixed then it shall lead to arbitrariness by the employers and that shall lead to clashes of interest between employer and labour which shall cause friction in society”.

So, the constitutional validity of the Minimum Wages Act, 1948 was questioned in many cases. So, I have mentioned only 1 or 2 cases, important cases, where the court discussed what is the objective of fixing minimum wages. The court said in one of the very famous cases is V. Unichonoy versus state of Kerala 1962 that fixation of minimum wages is for the preservation of public order.

And if no minimum wage is fixed, then it shall lead to arbitrariness by the employees and that shall lead to clashes of interest between employer and labour, which shall cause friction in society. So, in order to avoid this friction in society, and also in order to eliminate arbitrariness and in order to fix the minimum wages, this particular Act came into existence and the court said that the Minimum wages Act of 1948 is constitutionally valid.

(Refer Slide Time: 13:17)

Minimum Wages Act, 1948 - constitutional validity

- Gulmuhommed Tarasaheb a bidi factory by its proprietors *Shamrao vs State Of Bombay*, court that :
- *"The restrictions, though they interfere to some extent with the freedom of trade or business guaranteed under Article 19(1)(g) of the Constitution, are reasonable and being imposed on the general interest of the general public, are protected by the terms of clause (6) of the Article 19."*

And another important case discussed with regard to this is Shamrao versus state of Bombay. Here, some people approached the court and say that it is going to affect their constitutional rights in article 19(1)(g) of the constitution, so, which talks about freedom of trade. So, they said that this fixing of minimum wages is going to affect their trade and business.

So, the court very clearly said, the restrictions, the restrictions under article 19 though they interfere to some extent with the freedom of trade or business guaranteed under Article 19 (1)(g) of the constitution are reasonable and be imposed or the general interest of the general public are protected by article 19 clause 6 of the Constitution, that is reasonable restrictions. So, even though the fixing of these minimum wages is going to affect certain people, they

have to pay more they have to pay the minimum wages to the employees, but this is for the public interest.

(Refer Slide Time: 14:29)

The Code on Wages, 2019 - Definitions

- 2(y) "wages" means **all remuneration**
- Whether by way of salaries, allowances or otherwise,
- Expressed in terms of money or capable of being so expressed,
- If the terms of employment, express or implied, were fulfilled,
- Which would be **payable** to a person employed in respect of his employment or of work done in such employment, and **includes**—
 - i. Basic pay;
 - ii. Dearness allowance; and
 - iii. Retaining allowance, if any

So, at the beginning itself of this particular Act, the Supreme Court mentioned that this is the deed of the hour at that point of time. So the definition of wages which we already have seen in the last class, which is basic paid and also dearness allowances and retaining allowances are included under the wages now.

(Refer Slide Time: 14:53)

The Code on Wages, 2019 - Definitions

Wage does not include—

- a) Any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;
- b) The value of any house accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
- c) Any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- d) Any conveyance allowance or the value of any travelling concession;
- e) Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;

But a series of exclusions are there. We also see this series of exclusions and more importantly, the house accommodation is excluded. And also we can see that the provision

very clearly says, the contribution paid by the employer to any pension or provident fund and which interest they may have accrued thereon. One way the wage, the wages code says that it will not come under the definition of wages, but another special legislation Indian Tax Act, Indian Tax Act adds the employee contribution and employer contribution as your income, they consider it as your income.

So, there is a disparity between these 2 legislations and the wages code very clearly says that it will not come under the definition of wages, at the same time, the Income Tax Act charges you totally, and it defines the employer contribution also to the pension scheme or to the new pension scheme as your salary, your income. So, you have to pay the tax. So, there is a disparity between the 2 legislations and also some of the other the allowances like conveyance allowance or travelling concession are also excluded. So, these exclusions are very clear with regard to the definition of wages.

(Refer Slide Time: 16:36)

The **Code** on Wages, 2019 - not include

- f) House rent allowance;
- g) Remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
- h) Any overtime allowance;
- i) Any commission payable to the employee;
- j) Any gratuity payable on the termination of employment;
- k) Any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment:

And most importantly house rent allowance is excluded from the purview of the definition of wages.

(Refer Slide Time: 16:42)

The Code on Wages, 2019 - Definitions

- 2(s) "minimum wage" means the wage fixed under **section 6 (Fixation of minimum wages)** of the Code on Wages, 2019; Chapter II of the Act deals with minimum wages.

Section 5: Payment of minimum rate of wages
No employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate Government

Section 6: Fixation of minimum wages
The appropriate Government shall fix a minimum rate of wages—
(a) for time work; or (b) for piece work.

So, the minimum wage is also what we have seen in the definition, it says that no employer shall pay any employee wages less than the minimum rate of wages fixed by the appropriate governments. And that is the central schedule by the central government and state schedules by the state government. So, at the rate of wages, now, they can fix the time for the work, and also they can fix for the piece work, the wages can be fixed.

(Refer Slide Time: 17:16)

The Code on Wages, 2019 - Definitions

- 2(v) "same work or work of a similar nature" means
- Work in respect of which the **skill, effort, experience and responsibility required** are the **same, when performed under similar working conditions by employees** and
- **The difference** if any, between the skill, effort, experience and responsibility required for employees of any gender, **are not of practical importance** relation to the terms and conditions of employment;

And we already discussed about the same work or work of a similar nature, what does it mean? So, we were talking about the same work or work of a similar nature. So, this is very important for the purposes of the same wages. So, this is of more practical importance,

whether the same skill is involved in a similar kind of work or not, that can be considered as the same work or work of a similar nature.

(Refer Slide Time: 17:42)

Non-Discrimination on the ground of Gender in the matters of

1. There **shall be no discrimination**
 - Among employees **on the ground of gender**
 - In matters relating to **wages by the same employer,**
 - In respect of the **same work or work of a similar nature** done by any employee.
- **No employer shall,—**
 - i. For complying **with the above sub-section(1), reduce** the rate of wages of any employee; and
 - ii. Make **any discrimination** on the **ground of sex while recruiting** any employee for the **same work or work of similar nature** and in the conditions of employment, **except where women in such work is prohibited or restricted by**

And here gender discrimination is absolutely prohibited under the new code. So, there shall be no discrimination on the grounds of gender and also no discrimination on the grounds of gender based on wages. So, wages relating to wages, there should not be any gender discrimination and the employees have to follow the same work or work of similar nature, the same wages to be paid.

And also no employer shall reduce the rate of wages of any employee and make any discrimination on the grounds of sex while recruiting and also in terms of work, that is we are going to see Equal Remuneration. So there must be the same work, same wages or work of similar nature, similar wages. And also as I said, all these clear provisions are laid down in the wages code.

(Refer Slide Time: 18:53)

Determination - "same or similar nature of work"

- If there is **any dispute** as to whether a **work is of same or similar nature**, the dispute **shall be decided by such authority** as notified to the appropriate Government.

And here the same work same or similar nature of work is going to be interpreted by the courts in the future. So clearly, it says that it shall be whether it is the same or similar nature of work will be decided by the notified authorities of the appropriate governments. So, the state governments and the central government notify who is going to determine whether it is the same work or similar nature of work.

So initially, the authority is going to determine whether it is the same work or similar nature of work. And then the appeal will like.

(Refer Slide Time: 19:33)

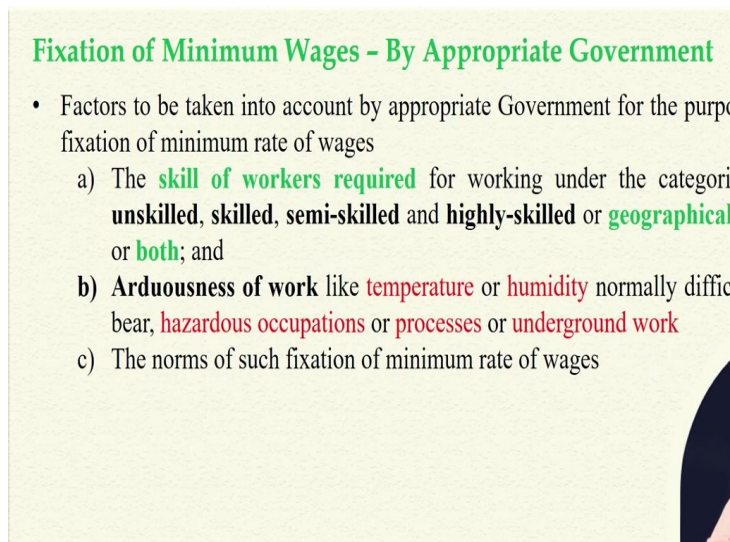
Fixation of Minimum Wages - By Appropriate Government

- The appropriate Government **shall fix** the minimum rate of wages.
- A minimum rate of wages—
 - a. For time work -
 1. By the hour; or
 2. By the day; or
 3. By the month
 - b. For piece work - For employees employed on piece work basis, **a minimum rate of wages on a time work basis shall be fixed.**

And how you are going to fix the minimum wage. The government is going to fix the minimum wages in the following categories. For example, for time work, time work can be hourly work, daily work, or monthly work. And the second category is the piece work. The case of employees who are working on piece work minimum rate of wages on a time work basis shall be fixed.

So, the minimum rate of wages on time work basis shall be fixed. So, it may be on a one-hour basis or daily basis or a monthly basis. So, it is very simple if somebody is working on time work, the wages are fixed for monthly wages, it is by 26 days. So, you will get per day your wages, so, your calculation should be in accordance with that.

(Refer Slide Time: 20:31)



Fixation of Minimum Wages - By Appropriate Government

- Factors to be taken into account by appropriate Government for the purpose of fixation of minimum rate of wages
 - a) The **skill of workers required** for working under the categories of **unskilled, skilled, semi-skilled and highly-skilled** or **geographical area** or **both**; and
 - b) **Arduousness of work** like **temperature** or **humidity** normally difficult to bear, **hazardous occupations** or **processes** or **underground work**
 - c) The norms of such fixation of minimum rate of wages

And in fixation, the appropriate government while fixing the rate of wages will look into the skills of the workers usually you can see the state government schedules which talk about agriculture workers, it talks about skilled workers, it talks about non-skilled workers, manual workers and also other different categories of works and for a specific geographical area.

So, the minimum wage can be changed from separate different geographical areas to another geographical area. And also the minimum rate may be a higher rate for arduousness nature of work like they have to work under severe temperatures or humidity.

So, also people who are subject to hazardous occupations, underground work the temperature or even humidity is very high. So, different minimum wages can be prescribed for works of arduous nature. And the norms and the fixation of minimum wages are also prescribed by this particular act.

(Refer Slide Time: 21:49)

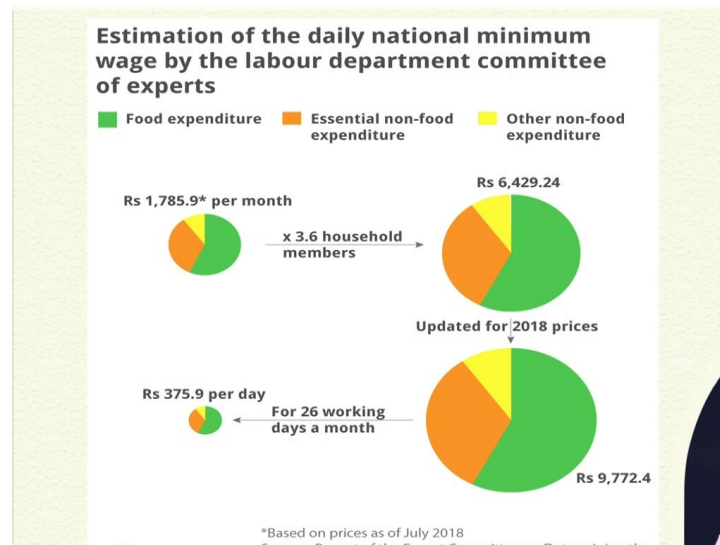
Fixation of Minimum Wages - Components

- Any minimum rate of wages fixed or revised may consist of—
 - (a) a **basic rate of wages and an allowance** adjusted at intervals according as nearly as practicable **the cost of living index number** or
 - (b) a basic rate of wages **with or without the cost of living allowance**, and the **cash value of the concessions of essential commodities**, where so authorised; or
 - (c) **an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions**, if any.

So, here we can see that we already said that, the basic rate of wages and allowances, so, it can be adjusted at intervals from time to time. So, usually, our calculation of minimum wages is based on the cost of index or living index and if the cost of the index goes up or inflation goes up, the government decreases the dearness allowance. So, here you can see that the cost of living is always a compound part of wages calculation and also the cash value of the concessions of essential commodities, that also is should be taken into consideration for the calculation of minimum wages.

So, here you can see that, so, it is an all-inclusive rate of living wages, and also the basic rate, cost of living allowances and cash value of concessions together constitute the minimum wages.

(Refer Slide Time: 22:48)



So, this is one of the calculations which is mentioned by the ministry in 2019, so, this is the national minimum wage, how they calculate. So, it shows that there is a food expenditure the government calculates food expenditure for a family, essential non-food expenditure, and other non-food expenditures, there are 3 categories, which is mentioned and the government fixed a rupees 375.9 per day for a 26 working day in a month.

So, you can see, how it is calculated. So, it will change from time to time, because food expenditures and also essential non-food expenditures increase over time. So, the estimation of the national minimum wages changes from time to time and that is why you see the changed or revised minimum wages from time to time.

(Refer Slide Time: 23:53)

Duty of Employer

- **No employer** shall pay to any employee **wages less than the minimum rate of wages** notified by the appropriate Government.

So, these components are very crucial. So, if the prices go up, then also the minimum wages also go up in the country. So, and also this very clearly said that, no, if it is the duty of every employer to pay the minimum wages, no employee shall pay below the minimum rates of wages notified by the State governments.

(Refer Slide Time: 24:17)

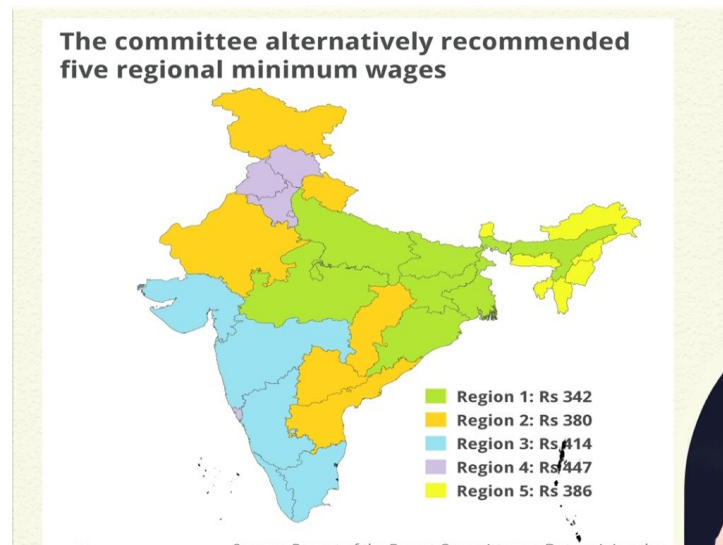
Fixation of *Floor Wages* - By *Central Government* - Procedure

- The Central Government shall fix floor wage (different floor wage for different geographical areas) taking into account minimum living standards of a worker.
- Any minimum rates of wages fixed by appropriate Government shall not be less than the floor wage and if minimum rates of wages are higher than the floor wage, then, the appropriate Government shall not reduce such minimum rates of wages fixed by it earlier.

And one of the most innovative provisions, which is introduced in the wage code is the central government fixes a floor wage. So, you can see that the fixing of this floor wage is a 1943 recommendation of the committee, labour conference, it was not implemented after 74 years completed. So, the government has implemented this particular recommendation through this particular provision, the central government wants to fix a minimum floor wage at the National level so that below the floor wage, no states can fix a floor wage below the floor wage national floor wage which means the states will be prevented from fixing a floor wage below the floor wage fixed by the central government.

So, the government presumes that this is going to eliminate disparities between the regions from state to state.

(Refer Slide Time: 25:27)



So, another recommendation of the committee was the regional minimum wages, regional minimum wages, which you can see that the country is divided into different regions. So, there are 5 regions at the highest and you can see that the highest paid regions the certain areas of states, which you can fight also one of the highest recommended areas are southern states, the southern states up to Gujarat.

And also, most importantly, some of the states like Delhi and Punjab also is one of the highest recommended areas. So, this is also the ministry report. So, we have to rely on these all official letters. So, what the government did, the present Act, the government has come up with the floor wage, but whether they are coming out with regional minimum wages or not, is not very clear.

So, these are recommended, but the government is saying that the government is going to come up with a minimum floor wage, so, where the state governments will be prevented from introducing below the minimum floor wages, so, they can fix higher wages in the state governments, but not below the minimum floor wages.

(Refer Slide Time: 26:55)

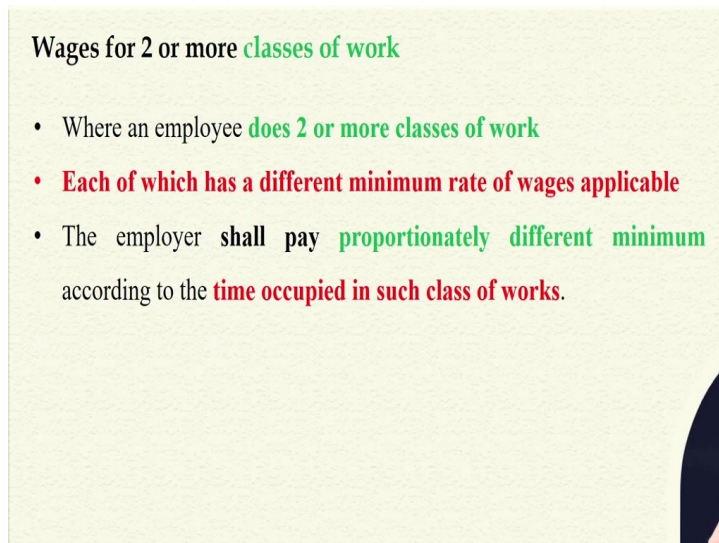
Wages of employee who works for less than normal working day

- If an employee whose **minimum rate of wages has been fixed by the da**
- **Works less than the requisite number of hours** constituting a normal working day,
- **He shall be entitled to receive wages in respect of work done on the day, as if he had worked for a full normal working day.**
- **But he shall not be entitled to receive wages for a full normal working day**
 1. His failure to work is caused by his **unwillingness to work**; and
 2. In other cases and circumstances, as may be prescribed.

And the wages which as I told you that the objective of the floor wage itself is that the state government are prevented from fixing a minimum below this particular floor rate. But, if somebody is working below the requisite number of hours in a day that they did not pay the complete minimum wage. So, he shall be entitled to the number of hours of work which he is working.

So, as if he is working for a full day, that means but at the same time, if he is refused to work in a full normal working day or he comes in the morning and puts a signature to the muster roll and is unwilling to work, then the employer can cut the wages, according to how many hours he is going to work. So, doing all these things will depend upon the circumstances of each case, and how much you can reduce the salary.

(Refer Slide Time: 28:00)

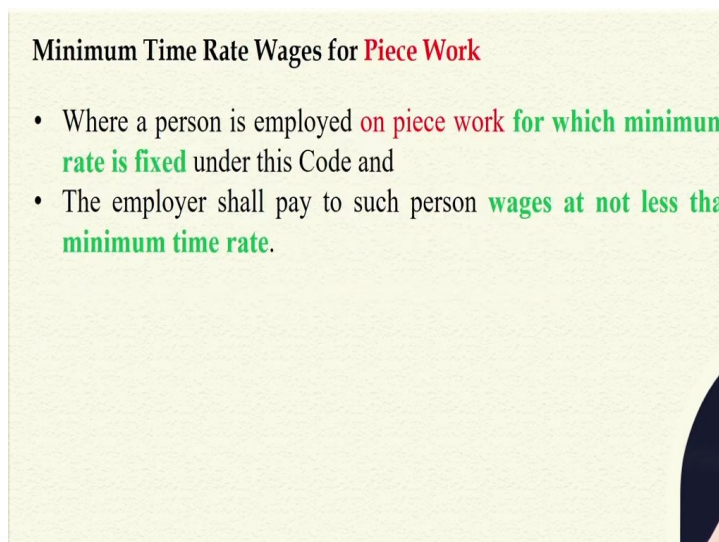


Wages for 2 or more classes of work

- Where an employee **does 2 or more classes of work**
- **Each of which has a different minimum rate of wages applicable**
- The employer shall pay **proportionately different minimum wages** according to the **time occupied in such class of works.**

And here you can see that the 2 classes of work mean each of which has a different minimum rate of wages applicable. So, one person can do 2 classes of work in a single day. So, he will be paid 2 salaries 2 minimum wages, 2 different works, 2 different classes of work. So, all these are I think probably the western concepts, whether one person can do more than one work under 2 employees or 3 employees per day and he can get 3 different minimum wages under 3 different classes of work. So, this is also introduced under the New Wage code.

(Refer Slide Time: 28:43)



Minimum Time Rate Wages for Piece Work

- Where a person is employed **on piece work for which minimum rate is fixed** under this Code and
- The employer shall pay to such person **wages at not less than minimum time rate.**

The most important thing is the piece work here, the person is employed on piece work for which the minimum time rate is fixed. So, that means the piece rate work becomes statutory in India. So, that means it will be calculated in accordance with wages not less than the

minimum time rate wages. So, the employers can employ somebody for 2 hours and they can pay for 2 hours of work, but that calculates not below the average pay of per day, minimum wages fixed by the state government from time to time.

(Refer Slide Time: 29:20)

Fixation of Normal Working Hours of a day - By Appropriate Govern

• For the following classes of employees apply, different working hours may be applicable-

1. Employees engaged in any **emergency** not foreseen or preventable;
2. Employees engaged in **work** of the nature of **preparatory or complementary** work which **must necessarily be carried on outside the general working**;
3. Employees whose employment is essentially **intermittent**;
4. Employees engaged in any **work which for technical reasons has to be completed before the duty is over**; and
5. Employees engaged in a work which could not be carried on except at times dependent on the **irregular action of natural forces**.

And here, the fixation of minimum working hours is by the appropriate state governments. For example, some of the states are already fixed the working hours are 8 hours. For example, the state of West Bengal, the state of Kerala and most of the state governments fixed the working time as 8 hours. So your calculation of piece rate work is also in accordance with the minimum fixed time of work.

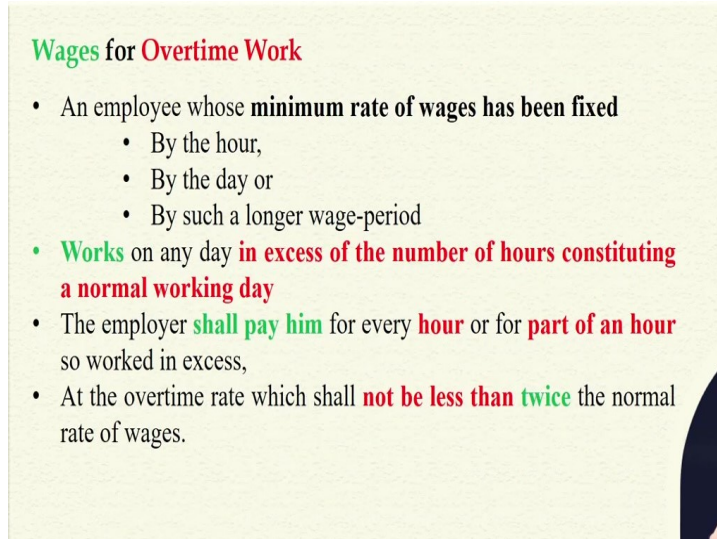
And also, this is not applicable in the case of some people working out emergency basis unforeseen or preventable circumstances, for example, ambulance drivers who required a 24x7 duty and employees working in the nature of preparatory or complementary work, which was necessarily carried outside the general working hours. And also whose you can see that intermittent works.

So, that means employees who are working intermittently also have the calculation of work to be there, their working hours to be taken into consideration and also certain technical reasons, they intermittently work this also taken to be, that means, irregular nature of work is not going to concern, not going to affect the payment of minimum wages.

So, it means the minimum wage has to be paid to workers, even though the nature of their work is such a way that it may be intermittently they may be working, there is a gap between

the work may be there, but if they work for the minimum number of hours fixed by the state governments from time to time.

(Refer Slide Time: 31:03)



Wages for Overtime Work

- An employee whose **minimum rate of wages has been fixed**
 - By the hour,
 - By the day or
 - By such a longer wage-period
- **Works** on any day **in excess of the number of hours constituting a normal working day**
- The employer **shall pay him** for every **hour** or for **part of an hour** so worked in excess,
- At the overtime rate which shall **not be less than twice** the normal rate of wages.

And here, so, as we already said, the rates can be fixed on an hourly basis, daily basis or monthly basis or longer period of basis, but it is very important to see how many hours are constituting a normal working day, then the pay will be calculated based on for example if the working hours are fixed for 8 hours.

If somebody is working more than 8 hours then it will be considered as overtime that we will see the overtime wages and the overtime wages fixed by the act is double the wages of normal working hours. The question is how many employees will be willing to pay double the wages beyond the working hours of anybody.

(Refer Slide Time: 31:50)

Union of India and Ors. vs. CPWD Mazdoor Union and Ors.
(19.10.2015 - DELHC)

- Whether workmen entitled to **Overtime wages** at **Double the rate of ordinary wages**?
- Held: Director general and employees of the union **had entered into an agreement that for overtime work employees would be paid double wages with reference to wages received for normal work**
- Entitlement of workmen would be flowing out of the agreement and not the Minimum Wages Act.

In this particular case, in the 2015 case, Union of India and others vs CPWD Mazdoor Union, here you can see that the question was whether the workmen were entitled to overtime wages. The double as I already said that it is double the rate of ordinary wages. So, the court in this particular case held that the director general and employees of the Union had entered into an agreement that for overtime work, the employees would be paid double the wages with reference to the wages received for normal work.

Then such entitlement would be flowing out of the agreement and not under the minimum wages which means if the overtime work is fixed by the employer and the employee through an agreement, then such kind of agreement will not come under the purview of the Minimum Wages Act. Such kind of agreements will be so, the minimum wages will be paid according to the agreement between both parties not under the Minimum Wages Act.

(Refer Slide Time: 32:57)

Penalties for Offences

- Any employer who—
 - a. Pays to any employee **less than the amount due**; fine upto **₹50,000/-**
 - b. Having been convicted of an offence under clause(a) is **again found guilty** of **similar offence** under this clause, **within 5 years**, be punishable with **imprisonment** upto **3 months** or **fine upto ₹1,00,000/-**, or **both**
 - c. Contravenes any other provision of this Code or any rule shall be punishable with **fine** upto **₹20,000/-**
 - d. Having been convicted of an offence under clause(c) is **again found guilty** of **similar offence** under this clause, **within 5 years**, be punishable with **imprisonment** upto **1 month** or **fine upto ₹40,000/-**, or **both**.

And there are penalties for contravention and violations of the agreement. So, here if the employer pays any employee less than the amount due then the fine is up to 50,000 rupees. So, if an employer pays less than the minimum wage, the penalty is 50,000 rupees. And also if an employer is found to commit the same offence twice within a period of 5 years, he shall be punished in prison for up to 3 months or fined up to one lakh rupees or both can be imposed on the employer.

And also the employer contributes any provisions of this particular court or rules, made under it can be punishable 20,000 rupees fine. And also mean you can see that if anybody is found again guilty of similar offences, with a period of 5 years, such employees shall be punished with imprisonment upto one month and also up to 40,000 rupees fine or both.

So, the Act agrees that punishment to a substantial extent or substantial amount are imposed as a fine for penal offences and also impose on the employer for those who are violating the provisions.

(Refer Slide Time: 34:22)

Penalties for Offences committed by **Companies**

- If the **person committing an offence** is a **company**,
- **Every person**, at the time of offence, in charge of and responsible,
- **As well as the company**
- Shall be **deemed to be guilty of the offence** and
- Shall be **liable to be proceeded against** and **punished**

- Unless such person can prove that the offence was committed **without his knowledge** or that **he exercised all due diligence to prevent the commission of such offence**.

And also you can see that if the offence is committed by a company, every person who is at the time of that particular committing of an offence, is in charge, and is responsible. So we already said that the employer means, who is in ultimate control over the affairs of a particular company, is responsible and is deemed to be guilty of such offences and liable to be punished in accordance with the provisions of this particular act.

So in the case of companies who are in charge, they are going to be responsible under these particular provisions.

(Refer Slide Time: 35:02)

Penalties for Offences committed by **Companies**

- If the offence has been committed with the **consent** or **connivance** of **attributable to any neglect to any director, manager, secretary or officer** of the company, **such person shall also be deemed to be guilty of offence** and **shall be liable to be proceeded against** and **punished** accordingly.
- “company” means any body corporate and **includes**—
 - i. A firm or
 - ii. A limited liability partnership or
 - iii. Other association of individuals; and
- “director” in relation to a firm means a **partner** in the firm.

Again, we can see that if any kind of consent or connivance is attributable to any neglect to any director, manager, secretary or any other officer of a particular company, such person shall also be deemed to be guilty of such offences that mean a company which includes a firm, there are limited various type of companies now. So, which includes a firm, limited liability partnerships, and other individuals for partnerships, directors, or partners of the firm so, all these people are going to be liable under the minimum wages, this particular provisions.

(Refer Slide Time: 35:41)

Central Advisory Board and State Advisory Boards

Central Advisory Board

- The Central Government shall constitute the **Central Advisory Board**
- Shall consist of persons nominated by the Central Government—
 - a) Representing **Employers**;
 - b) Representing **Employees**(equal in number of employers); and
 - c) **Independent persons**(not exceeding 1/3rd of total members)
 - d) 5 representatives** of such State Governments as nominated.
- 1/3rd of the members shall be **women**
- A member shall be appointed as the **Chairperson of the Board.**

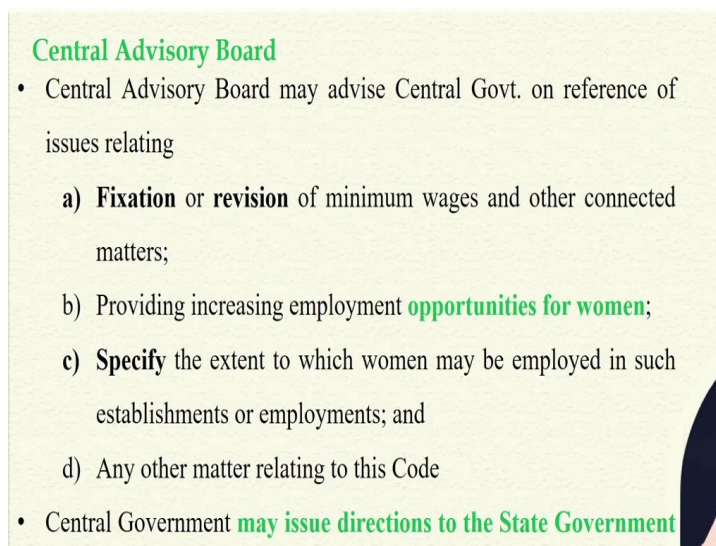
Then the next we are going to see quickly going to see Central Advisory Boards, State Advisory Boards which are formed under these particular wage codes. Here, the central government will constitute a central advisory board. The central advisory board is going to

have representation in the particular board. Representing employers, representing employees, and independent persons not exceeding 1/3rd of the total members, and 5 representatives of state governments to be nominated to this particular central advisory board.

And more importantly, there is the participation of women, and empowerment of women through the participation in this particular Advisory Committee also provided 1/3rd of the members should be women and members shall be appointed chairperson of a particular board, a particular member will be appointed as the chairperson of the board.

So, we can see that a tripartite body within the event independent persons had women representation is mandated under the provisions to constitute the central advisory board.

(Refer Slide Time: 36:54)



Central Advisory Board

- Central Advisory Board may advise Central Govt. on reference of issues relating
 - a) **Fixation** or **revision** of minimum wages and other connected matters;
 - b) Providing increasing employment **opportunities for women;**
 - c) **Specify** the extent to which women may be employed in such establishments or employments; and
 - d) Any other matter relating to this Code
- Central Government **may issue directions to the State Government**

And also you can see that the fixation they can do, fixation revision of minimum wages, and also providing increased employment opportunities for women. And also the extent of women's employment establishments, also they can prescribe. And also the central government have the power to issue directions to the state government with regard to any of these particular provisions.

(Refer Slide Time: 37:23)

State Advisory Board

- Every State Government **shall constitute** a State Advisory Board for advising the State Government—
 - a) **Fixation** or **revision** of minimum wages and other connected matters;
 - b) **Providing** increasing employment **opportunities for women;**
 - c) **Specify the extent** to which **women may be employed** in such establishments or employments; and
 - d) Any other matter relating to this Code.
- The State Advisory Board may **constitute 1 or more committees or sub-committees**
- The State Advisory Board shall consist of persons—
 - a) Representing employers;
 - b) Representing employees (in equal number);

And, most importantly, every state to form another advisory board state advisory board, and state advisory boards are also eligible to fix or revise minimum wages and also increase employment opportunities for women and also the women participation to what extent the women participation in the employee establishments.

You can see that sub-committees can also be constituted under the advisory boards. So the participation is similar to us that of the central advisory board which is represented by employers, representatives of employees, and independent persons and women representation.

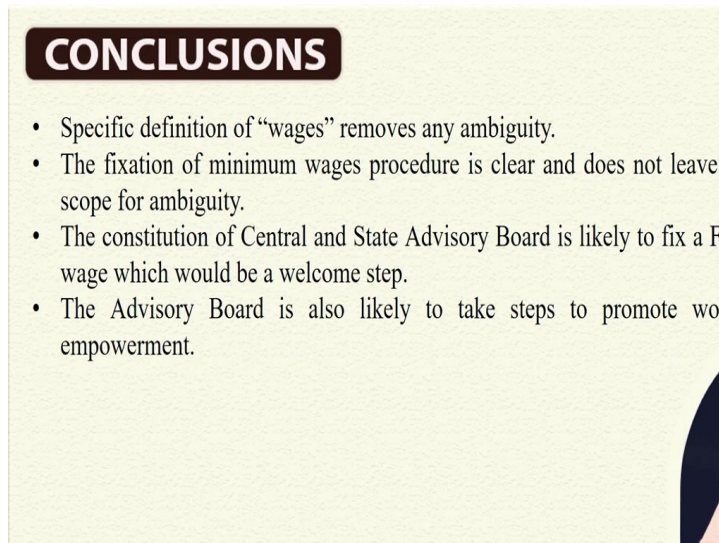
(Refer Slide Time: 38:05)

State Advisory Board

- 1/3rd of the members shall be women and one among the members shall be—
 - a) Chairperson of the Board;
 - b) Chairperson of the committee or sub-committee, as the case may be.
- In tendering its advice, the State Advisory Board **shall have regard to**
 - The number of women employed in the concerned establishment, or employment,
 - The nature of work,
 - Hours of work,
 - Suitability of women for employment,
 - The need for providing
 - Increasing employment opportunities for women, including part time employment and
 - Other relevant factors

And here we can see that the chairpersons will be appointed by the appropriate governments from time to time. And also you can see that they will be tendering advices, advisory board regard to their giving advices on various matters. Such as the nature of work, the hours of work, suitability of women for employment, the need of providing increasing employment opportunities for women and other any other matter, these advisory boards can give advice to the state government and central governments.

(Refer Slide Time: 38:35)



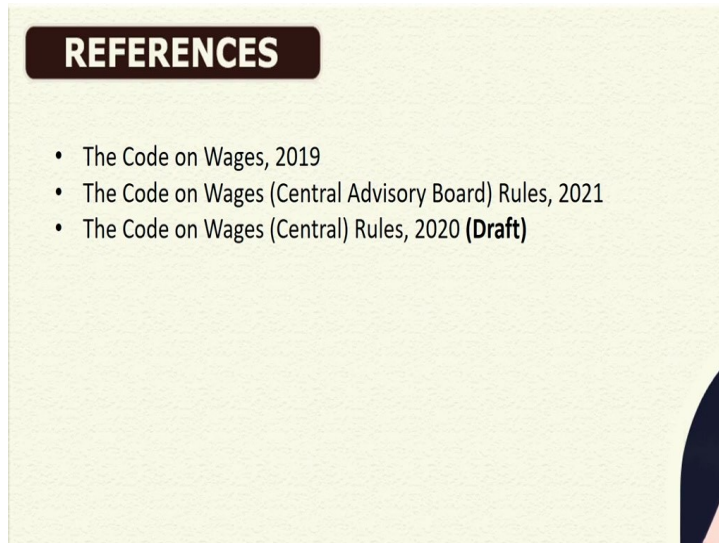
CONCLUSIONS

- Specific definition of “wages” removes any ambiguity.
- The fixation of minimum wages procedure is clear and does not leave a scope for ambiguity.
- The constitution of Central and State Advisory Board is likely to fix a Floor wage which would be a welcome step.
- The Advisory Board is also likely to take steps to promote women empowerment.

So, when we look quickly into the India Minimum Wages Act. So, we can see that it provides an elaborate definition of minimum wages and how to fix the minimum wages. And there are no ambiguities in fixation of the minimum wages, what are the components to be taken into consideration for fixing the minimum wages, then the constitution of central advisory boards and the constitution of state advisory boards and more importantly, the woman’s participation, women empowerment in this particular advisory boards provisions are provided.

So, this is a welcome step and one more aspect to be mentioned is the central government is going to fix a floor wage where below the floor wage the State governments cannot fix the state government wages. India is a diverse country with regional disparities. So we presume that with this particular floor wage, the regional disparities and the state disparities, which we already saw in the presentation, can be eliminated.

(Refer Slide Time: 39:47)



So thus there are clear provisions in the court and the new rules are going to be notified very soon. So this can be going to increase or consolidate the laws which are relating to the minimum wages in the country, Thank you.